

## REMARKS

Claims 1 – 23 are pending; claims 1 – 4 and 6 – 23 are rejected; claim 5 is objected to. The Examiner rejects claim 4 under 35 U.S.C. §112, second paragraph because the Examiner asserts the claim is indefinite. The Examiner also rejects claims 1, 4, 7 – 12 and 14 – 20 under 35 U.S.C. §102(b) because the Examiner asserts that U.S. Patent 3,141,598 issued to Rasmussen *et. al.* (Rasmussen) anticipates these claims. The Examiner also rejects claims 2, 3, 6, 13 and 21 - 23 under 35 U.S.C. §103(a) because the Examiner asserts that Rasmussen and U.S. Patents 5,299,734 issued to Lane (Lane), 3,306,521 issued to Giacomvas (Giacovas), 5,503,328 issued to Roccaforte *et. al.* (Roccaforte) and 5,660,322 issued to Jensen (Jensen) make these claims obvious.

The applicants have amended claims 1 and 10 to address the Examiner's rejections. The applicants respectfully disagree with the Examiner's rejection of claims 1 – 4 and 6 – 23, as amended, and assert that the claims 1 – 23, as amended, are in condition for allowance for the reasons discussed below.

### **Rejection of claim 1 under 35 U.S.C. §102(b)**

The applicants respectfully disagree with the Examiner's rejection of claim 1 over Rasmussen because Rasmussen fails to disclose all the elements of claim 1, as amended. More specifically, Rasmussen fails to disclose a box that can be closed a second time with one of two top flaps.

The applicants' claim 1, as amended, recites a box 20 (FIG. 1) that includes a first top flap 24c (FIGS. 1 and 2) having an attachment strip 26c (FIGS. 1 and 2) and a tear strip 28c (FIGS. 1 and 2), and a second top flap 24d (FIGS. 1 and 2) having an attachment strip 26d (FIGS. 1 and 2) and a tear strip 28d (FIGS. 1 and 2). To close the box 20 a first time, the attachment strip 26c may be used to attach the first top flap 24c to a third top flap 24a (FIGS. 1 and 2). Then, to open the box, the tear strip 28c may be used to release the first top flap 24c from the third top flap 24a. To close the box a

second time, the attachment strip 26d may be used to attach the second top flap 24d to a fourth top flap 24b. Then, to open the box a second time, the tear strip 28d may be used to release the second top flap 24d from the fourth top flap 24b.

In contrast, Rasmussen discloses an easy opening container A (FIG. 2) that cannot be closed a second time with one of two top flaps. Container A includes four top-closing-flaps 23, 24, 25 and 26. To close the container A, one attaches each top-closing-flap 23 and 25 to both of the remaining top-closing-flaps 24 and 26. If only one of the top-closing-flaps 23 and 24 are attached to both top-closing-flaps 24 and 26, the container A will remain open. Because both top-closing-flaps 23 and 25 must be attached to both top-closing-flaps 24 and 26 to close the container A, one can not reuse the container A without gluing or taping a strap to at least one of the top-closing-flaps 23 and 25 to bridge the gap generated by removing a respective one of the tear strips 29 and 31. Thus, unlike the applicants' box claimed in claim 1, as amended, Rasmussen's container A does not include a top-closing-flap that may remain unattached to the top-closing-flaps 24 and 26 when the container A is closed.

Therefore, because the container disclosed in Rasmussen cannot be closed a second time with one of the two top-closing-flaps, Rasmussen fails to anticipate the applicants' box claimed in amended claim 1.

Claims 2 – 9 are patentable by virtue of their dependencies from claim 1.

#### **Rejection of claim 10 under 35 U.S.C. §102(b)**

Claim 10 is patentable over Rasmussen for reasons similar to those recited above in support of claim 1 over Rasmussen.

Claims 11 – 15 are patentable by virtue of their dependencies from claim 10.

#### **Rejection of claim 16 under 35 U.S.C. §102(b)**

Claim 16 is patentable over Rasmussen for reasons similar to those recited above in support of claim 1 over Rasmussen.

Claims 17 – 20 are patentable by virtue of their dependencies from claim 16.

**Rejection of claim 21 under 35 U.S.C. §103(a)**

The applicants respectfully disagree with the Examiner's rejection of claim 21 because Jensen and Roccaforte fail to support a *prima facie* case for obviousness. Jensen and Roccaforte fail to teach or suggest all of the claim limitations in claim 21. More specifically, Jensen and Roccaforte fail to teach or suggest a box that is closed one time by attaching a first top flap to a second top flap, and that is then closed a second time by attaching the second top flap to the first top flap.

To establish a *prima facie* case of obviousness, three basic elements are required. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. And third, the references when combined must teach or suggest all the claim limitations. MPEP; 8<sup>th</sup> edition; §2143.

The applicants' claim 21 recites a box 40 that can be closed more than once, and thus used more than once. The box 40 includes a first top flap 24c and a second top flap 42a. To close the box 40 once, the first top flap 24c is attachable to the second top flap 42a. To close the box 40 a second time for a subsequent use, the second top flap 42a is attached to the first top flap 24c. The first top flap 24c includes an attachment strip 26c to attach the first top flap 24c to the second top flap 42a, and a tear strip 28c to release the first top flap 24c from the second top flap 42a. The second top flap 42a includes an attachment strip 26a to attach the second top flap 42a to the first top flap 24c, and a tear strip 28a to release the second top flap 42a from the first top flap 24c. Thus, the box 40 may be used once by attaching the first top flap 24c to the second top flap 42a with the attachment strip 26c to close the box, and then used a second time by attaching the second top flap 42a to the first top flap 24c with the attachment strip 28a to close the box during a subsequent use.

In contrast, when combined, Jensen and Roccaforte fail to teach or suggest a box that is closed one time by attaching a first top flap to a second top flap, and that is then closed a second time by attaching the second top flap to the first top flap.

Jensen teaches or suggests a box having a main top flap 30 (FIGS. 1 and 4) that may be attached to other top flaps to close the box. Jensen fails to teach or suggest a tear strip to release the main top flap from the other top flaps to open the box. Furthermore, Jensen fails to teach or suggest closing the box a second time by attaching a second, previously unattached, top flap to the main top flap 30.

Roccaforte teaches or suggests an envelope 522 (FIG. 9) that can be closed a second time, but not by attaching together the same two flaps used to close the envelope the first time. The envelope 522 includes closure flaps 524 and 532 (FIG. 9) and a rear panel (not numbered in FIG. 9). To close the envelope 522 a first time the closure flap 524 is attached to the rear panel with adhesive 530, and the closure flap 532 is also attached to the rear panel with adhesive (not numbered but shown below the tear strip 534 in FIG. 9). When the envelope 522 is closed the first time, one of the closure flaps 524 and 532 may be attached to the other closure flap at a corner of the envelope 522 where the two closure flaps 524 and 532 intersect. To close the envelope 522 a second time, either the closure flap 524 is re-attached to the rear panel with the adhesive 526, the closure flap 532 is re-attached to the rear panel with adhesive 535 or both closure flaps 524 and 532 are re-attached to the rear panel as previously mentioned. When the envelope 522 is closed a second time, the two closure flaps 524 and 532 are not attached together. Thus, unlike the applicants' box claimed in claim 21, Roccaforte's envelope is not closed a second time by attaching the closure flaps together.

Therefore, the combination of Jensen and Roccaforte teaches or suggests at most a box having closure flaps that are each attachable to a main top flap to close the box. During each use of the box, both closure flaps must be attached to the main top flap to close the box.

. Therefore, when combined, Jensen and Roccaforte fail to support a *prima facie* case of obviousness because Jensen and Roccaforte fail to teach or suggest the box claimed in claim 21.

Claims 22 and 23 are patentable by virtue of their dependencies from claim 21.

### **Conclusion**

The applicants assert that claims 1 – 4 and 6 – 23, as amended, are allowable. Therefore, the applicants respectfully request the Examiner withdraw his rejections and objection against claims 1 – 23 and issue an allowance for these claims.

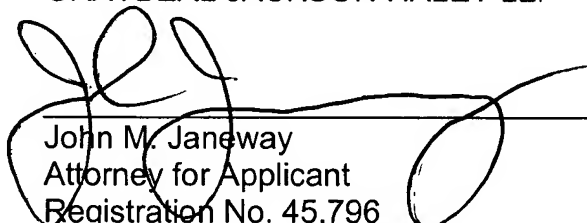
Should any additional fees be required, please charge them to Deposit Account No. 07-1897.

If the Examiner believes that a phone interview would be helpful, he is respectfully requested to contact the Applicants' attorney, John Janeway, at (425) 455-5575.

DATED this 21<sup>st</sup> day of November 2003.

Respectfully submitted,

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